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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION EIGHT

THE SIGNAL HILL REDEVELOPMENT AGENCY, Plaintiff and Respondent, v. TRAFFIC LOOPS CRACKFILLING, INC., Defendant and Appellant.	B205625 (Los Angeles County Super. Ct. No. BC357846)

APPEAL from a judgment of the Superior Court of Los Angeles County. Ronald M. Sohigian, Judge. Affirmed.

Dennis P. Gaughan and Vu V. Trinh for Defendant and Appellant.

Aleshire & Wynder, David J. Aleshire, Sunny K. Soltani, and Lesley Cheung for Plaintiff and Respondent.

The Signal Hill Redevelopment Agency (Agency) filed a complaint in eminent domain to acquire real property owned by Traffic Loops Crackfilling, Inc. (Traffic Loops). A jury fixed the value of Traffic Loops's real property at $590,000. The trial court entered judgment in accord with the jury's verdict. Traffic Loops then filed the appeal that comes before us today. The sole issue raised by Traffic Loops on appeal is that the trial court committed reversible error when it granted the Agency's motion in limine to preclude the company's principal from testifying that the value of the property was "$800,000 or $900,000." We affirm.

FACTS & DISCUSSION

The Property and the Eminent Domain Action

In mid-2004, Traffic Loops paid $380,000 to purchase real property located on the northeast corner of 27th Street and Olive Avenue in the City of Signal Hill. The property consists of a number of lots created by a recorded subdivision map and contains a total of 39,000 square feet (130' x 300') or slightly less than one acre. At all times relevant to the current case, the property was largely dormant except for "people planting vegetable[s] and all kind of Asian vegetable[s] there." In August 2006, the Agency filed a complaint in eminent domain to acquire the property for the stated public purposes of eliminating blight and developing a cement batch plant. In spring 2007, the trial court set a jury trial on the issue of valuation for late 2007.

The Motion in Limine

In October 2007, the Agency filed a motion in limine (No. 3) to exclude any testimony by Lee Nguyen, Traffic Loops's principal, regarding the value of the property. The Agency's motion boiled down to this argument: Mr. Nguyen's proposed testimony regarding the value of Traffic Loops's property (as demonstrated by his deposition) was "irrelevant" because he based his valuation of the property on an "inadmissible valuation methodology . . . ." More specifically, the Agency argued that Mr. Nguyen measured the value of property by applying an "appreciation" factor to the purchase price of the property, and/or by assessing the value of the property "if" a business was being operated on site (which was not the case). The Agency argued that Mr. Nguyen's valuation

methodology did not comport with any of the three traditionally recognized valuation methods for real property, i.e., (1) comparable sales or market data; (2) replacement cost; and (3) income approach.

At a pretrial hearing in early November 2007, the parties argued the merits of the Agency's motion in limine to preclude Mr. Nguyen from testifying about the value of Traffic Loops's property. At the conclusion of the hearing, the trial court granted the Agency's motion in limine for the reasons set forth in its moving papers.

Trial

The issue of the value of Traffic Loops's real property was tried to a jury in late November into early December 2007. The Agency called an expert witness real estate appraiser who offered his opinion that Traffic Loops's property had a value of $590,000. Meanwhile, the issue of Mr. Nguyen's valuation testimony was revisited shortly after voir dire, and, again, after the Agency's expert appraiser finished his testimony. On both occasions, the trial court adhered to its prior ruling.

On December 4, 2007, the jury returned a verdict in which it fixed the value of Traffic Loops's property at $590,000. On December 13, 2007, the trial court entered a final judgment in accord with the jury's verdict.

Traffic Loop's Appeal

Traffic Loops contends the judgment must be reversed because the trial court did not allow its principal, Mr. Nguyen, to testify regarding the value of Traffic Loops's real property. We disagree.

For a great many years, our state courts recognized that an owner of real property, "by virtue of ownership and [use of his or her] property for a number of years, qualified as a person entitled to express an opinion as to its value." (*Long Beach City. H. S. Dist. v. Stewart* (1947) 30 Cal.2d 763, 772, citing *Spring Valley Water Works v. Drinkhouse* (1891) 92 Cal. 528, 535 and *LeBrun v. Richards* (1930) 210 Cal. 308, 319.) Later, the Legislature codified this principle in Evidence Code section 813. (Stats. 1980, ch. 381, § 3, p. 757; Stats. 1978, ch. 294, § 6, p. 615; Stats. 1965, ch. 1151, § 4, p. 2904, eff. Jan. 1, 1967.) Under Evidence Code section 813, subdivision (a), the value of property

may be shown only by the opinions of: (1) witnesses qualified to express such opinions; (2) the owner of the property being valued; or (3) an officer designated by a corporation that is the owner of the property being valued.

The Evidence Code's delineation of those witnesses who may testify regarding the value of property does not mean, however, that those witnesses have an absolute right to testify at their own pleasure on the subject of valuation. On the contrary, the trial court has discretion — as with most evidentiary matters — to admit or exclude evidence on the issue of the value of property. (See, e.g., *Contra Costa Water Dist. v. Bar-C Properties* (1992) 5 Cal.App.4th 652, 660.) For example, where a witness's opinion testimony is based on improper considerations or incompetent or inadmissible matters, the trial court retains discretion to exclude the witness's opinion testimony. (*County Sanitation Dist. v. Watson Land Co*. (1993) 17 Cal.App.4th 1268, 1282.)

Traffic Loops's arguments on appeal do not convince us that the trial court abused its discretion. When a trial court is vested with discretion to rule on a particular subject, and a party challenges a ruling made in such a context, the test on appeal for abuse of discretion is whether the trial court "exceeded the bounds of reason." (*Shamblin v. Brattain* (1988) 44 Cal.3d 474, 478.) Although Traffic Loops's arguments on appeal may or may not support a conclusion that the trial court would have acted within its discretion had it permitted Mr. Nguyen to testify regarding the value of the property, that is not the issue.[1] The issue on appeal is not whether the trial court reasonably could have made a different ruling than it did; the issue is whether the trial court "exceeded the bounds of reason" by making the ruling that it actually made.

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[1] Mr. Nguyen's trial testimony (the part which was permitted) shows that he has been buying and selling property in California "from 1977 [*sic*]," and that he had looked at "about 10 to 12 pieces [of property]" before he decided to purchase the Signal Hill property.

After examining Traffic Loops's arguments on appeal, we simply cannot say that the trial court "exceeded the bounds of reason" by ruling that Mr. Nguyen would not be permitted to testify regarding valuation unless his testimony comported with recognized methods of valuing property. Fairly construed, Traffic Loops's premise seems to be that, *with regard to a property owner*, a trial court necessarily acts unreasonably as a matter of law when it disallows an owner's testimony, regardless of whether or not the owner has based his or her valuation conclusions on a "traditional" or "nontraditional" valuation methodology. The cases cited by Traffic Loops do not persuade us to adopt its implicit proposition that a property owner is entitled to a heightened measure of deference when the owner tries to establish a property's value, particularly where, as in the current case, the property at issue is owned and held by a business concern, for business reasons, and valuation reflects the business uses for which the property could be used.

Traffic Loops's reliance on *People v. La Macchia* (1953) 41 Cal.2d 738, does not persuade us to reach a different conclusion. Indeed, as the Supreme Court explained in *La Macchia*, "there is no logical ground for any . . . distinction" between a witness who is a property owner and a witness who testifies as an expert; both witnesses must base their ultimate conclusion regarding value on a proper foundation. (*Id*. at p. 746.) "[An] expert is qualified by proof of his familiarity with the property and with other property in the neighborhood, his experience in the business, his familiarity with the state of the market and of sales of similar property in the vicinity. [Citation.] A property owner, on the other hand, is generally considered competent to estimate the value of his property upon a showing that he has resided thereon for a number of years. [¶] . . . [T]herefore, a property owner and an expert witness are in a different position only insofar as their qualifications to testify rest upon different bases. In stating his opinion as to the value of the property, the owner is bound by the same rules of admissibility of evidence as is any other witness." (*Id*. at pp. 746-747.)

Given these principles, and the state of the record before us on appeal, we find no abuse of discretion in connection with the trial court's decision to exclude Mr. Nguyen's testimony regarding value in Traffic Loops's current case.

DISPOSITION

The judgment is affirmed. Respondent is to recover its costs on appeal.

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BIGELOW, J.

We concur:

COOPER, P. J.

FLIER, J.